

FILED

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MAY 30 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

NELSON ARAGONES,
Movant,

v.

Case No. 18-CR-3544-DCG-2

UNITED STATES OF AMERICA,
Respondent,

MOTION ACCORDING TO A WRIT
OF NUNC PRO TUNC

COMES NOW, Nelson Aragon, Movant pro se, filing this instant motion for Nunc Pro Tunc (Now for Then). Movant is a layman of the law, unskilled in the legal drafting as that of an attorney, therefore he requests that this motion be construed in a "liberal" manner according to law. Haines v. Kerner, 404 U.S. 519 (1972).

Movant states the following reasons in support of this Nunc Pro Tunc motion:

I. STATEMENT OF FACTS

Mr. Aragon was arrested in the state of Texas for the following case nos. 20150D050188 and 20160D01098 on May 3, 2017, the Movnat was sentenced to 6 years (72mos) of imprisonment and placed in the custody of the TCDJ (Texas dept. of corrections).

On December 12, 2018; Mr. Aragon was indicted for the current federal offenses in the Western District of Texas in the 5th Circuit of the United States District Court.

On March 25, 2019 Mr. Aragon was transfered from the custody

of the TCDJ to that of the Federal Detention Center in Texas via the US Marshals on a Federal Writ. On 11/22/2019, the defendant pled guilty to the instant offenses in case no. EP-18-cr-03544-DCG. Due to the unfortunate events surrounding the COVID-19 pandemic; sentencing was delayed for almost a full year (11/16/20). On this date, Mr. Aragonés was sentenced to 120 mos of imprisonment by the federal judge. This was via a "sealed plea agreement."

During the Defendant's time in the FDC awaiting the proceedings of the instant offenses; the Texas Parole Board met with Mr. Aragonés 3 times at which parole was subsequently denied on all 3 occasions.

HISTORY OF CUSTODY/IMPRISONMENT

Mr. Aragonés was in custody of the Texas DCJ from 05/03/2017 thru 03/25/2019, at which point his custody was transferred to the US Marshal's and FDC. The Defendant remained in the custody of the federal government / USM from the above date forward. Once sentenced by the federal judge in the instant offense he was NEVER returned back to the custody of the TCDJ.

According to Mr. Aragonés' "Team Computation Sheet" his "in-custody" date reflects 03/25/2019; however his computation of sentence date doesn't begin until 09/19/2021. That is over 2 years after being transferred to the custody of the Federal government.

ADMINISTRATIVE REMEDIES

Mr. Aragonés has attempted to remedy his computation of sentencing issues via administrative remedies at the institutional level to no avail. In 2022, the Defendant contacted staff here at FCC Coleman Medium inquiring as to the missing credit for time

served. Then Warden Salem responded stating that he couldn't receive credit towards his federal sentence that had already been applied to another sentence. (see attachment 1).

Once again on 02/24/2023, Mr. Aragonés filed a BP-8 with his plea agreement attached noting the government's deferment to the court regarding the imposing of sentence concurrently, consecutively or a combination of both. On 03/10/2023 the Bp-8 was returned stating Mr. Aragonés was in state custody ~~at this time of federal sentencing is so~~ therefore although he was in custody of the USM/FDC ; that time was awarded to his state sentence and thus is not applicable to his current federal sentence (see attachment 2).

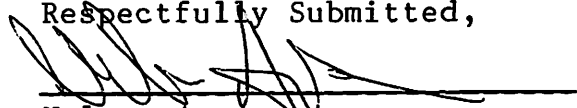
Again, Mr. Aragonés refers back to his *Sentencing hearing transcript*, specifically on page 7 at lines 3-4. Here the Judge states that he is going to agree with the plea and its conditions, never stating that he could not receive the time he had been in custody of the USM/FDC despite he still being under a state sanction. The only caveat from the government was that Mr. Aragonés couldn't receive any credit from the time in custody of the TCDJ prior to being arrested on the government's writ to prosecute.

CONCLUSION

Movant hopes and prays that this Honorable Court will grant his request of this instant motion for Nunc Pro Tunc and thus provide him with the credit for the time served.


Date: 5/22/2023

Respectfully Submitted,


Nelson Aragonés

CERTIFICATE OF SERVICE

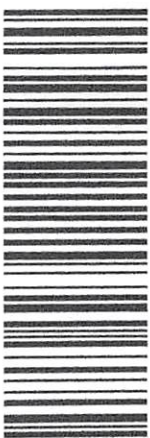
I, Nelson Aragonés, hereby declare under penalties of perjury (18 U.S.C. §1746), that a true and correct copy of the foregoing was mailed via the U.S.P.S. with first class postage prepaid and placed in the prison mail system on this 22 day of May, 2023. Copies were mailed to the following address: Albert Armendariz Sr U.S. Courthouse; Clerk of Court, 525 Magoffin Ave. Room 165; EL Paso, Tx 79901. I request that the Clerk of Court notify any and all other interested parties via the CM/ECF system.


[Oath and Affirmation]

Nelson Aragonés
Reg#28199-480
FCC Coleman Medium
P.O. Box 1032
Coleman, FL 33521

Nelson Aragones / Reg# 28199-480
Federal Correctional Complex Coleman Medium
P.O. Box 1032
Coleman, FL 33521

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
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Albert Armendariz Sr.
U.S. Courthouse / Clerk of Court
525 Magoffin Ave. Room 165
EL Paso, TX 79901

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MAY 29 2023

